

# **EXHIBIT 1**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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ROUTE APP, INC.,

Plaintiff,

vs.

MARC HEUBERGER and NAVIDIUM APP,

Defendants.

**PLAINTIFF ROUTE APP, INC.'S FIRST  
SET OF REQUESTS FOR PRODUCTION  
OF DOCUMENTS TO MARC  
HEUBERGER AND NAVIDIUM APP**

Civil No. 2:22-cv-00291

Judge: Hon. Ted Stewart

Magistrate Judge: Hon. Jared C. Bennett

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Plaintiff Route App, Inc. ("Route") requests, pursuant to Federal Rules of Civil Procedure 26 and 34, that Defendants Marc Heuberger and Navidium App ("Navidium") produce, in accordance with the definitions and instructions set forth herein, the documents requested below (the "Requests," and each a "Request") to the offices of Kirkland & Ellis LLP, 60 E S Temple St., Salt Lake City, Utah 84111, or at such place as may be appropriate or otherwise agreed to by the parties. Pursuant to Rule 34, Defendants' production is to be made within thirty days of the service of this request.

Each of the document Requests is continuing in nature. Therefore, if after producing documents Defendants obtain or become aware of additional information or documents pertaining to any Request for production, Defendants are requested to supplement their responses and production and provide such information or documents.

These document Requests shall be read, interpreted, and responded to in accordance with the definitions set forth below.

### **DEFINITIONS**

1. “Any” includes the word “all” and “all” includes the words “each” and “any.”
2. The connectives “and” or “or” are to be construed either disjunctively or conjunctively as necessary to bring within the scope of these Requests all responses that might otherwise be construed to be outside of their scope and are not to be interpreted to exclude any information from the scope of these Requests.
3. The term “communication” or “communications” includes every manner of transmitting or receiving facts, information, opinion, or thoughts from one person to another person, whether orally or through documents, writing, e-mail, electronic messaging, or copy thereof. Communication also includes words transmitted by any method of voice recording, including by telephone.
4. The term “document” or “documents” shall be construed to be synonymous and equal in scope to the usage of this term in Federal Rule of Civil Procedure 34(a).
5. The terms “relating to” and “regarding” include, without limitation, affecting, summarizing, considering, digesting, referring to, concerning, comprising, constituting, commenting upon, describing, showing, pertaining to, mentioning, reporting, representing, listing, analyzing, studying, evidencing, reflecting, bearing on, constituting, connected to, or otherwise discussing in any way the subject matter identified in a Request.

6. The terms “you” or “your” means those persons and businesses responding to these Requests: Marc Heuberger and Navidium App.

7. “Navidium” means and refers to Navidium App and all persons and entities related thereto, including any and all of its founders, operators, managers, owners, partners, members, employees, agents, representatives, and assigns, as well as all entities related to Navidium such as subsidiaries and affiliates.

8. The term “Merchant” means a company and/or individual that offers a product or service for sale.

9. The term “Merchant Partner” refers to merchants who at any time have used Route’s products and/or services.

10. The term “Social Media” refers to websites and applications that enable users to create and share content or to participate in social networking, including, but not limited to, Twitter, Facebook, Instagram, YouTube, TikTok, LinkedIn, WhatsApp, and Reddit.

### **INSTRUCTIONS**

11. These Requests require the production of all responsive Documents (as defined herein) that are in your possession, custody, or control, wherever located and whether active, in storage, or otherwise.

12. If no Documents exist that are responsive to a particular Request, state that fact in your response to such Request.

13. Each of the Requests shall be construed independently, and none of the Requests limits the scope of any of the other Requests.

14. All Documents shall be produced as kept in the ordinary course of business, in the form and in the same order within each file in which they were located prior to production.

15. Each Request shall be considered as including all non-identical copies and, to the extent applicable, preliminary drafts of documents that, as to content, differ in any respect from the original or final draft or from each other.

16. As required by Rule 26(b)(5) of the Federal Rules of Civil Procedure, if any documents are withheld on the basis of any privilege, indicate the claim of privilege and the grounds upon which your claim of privilege rests and describe the nature of the documents in a manner that will enable Plaintiff to assess the claim. For any document or communication withheld, please identify the date the document was created, the date it was transmitted, the general subject matter of the document, and identify all recipients who received the document or communication.

17. If any requested document is known by you to have existed, but no longer exists or no longer is in your possession, custody, or control, you are required to identify the last known custodian thereof and state the date upon which it was lost or destroyed or otherwise became unavailable. If the document still exists, you are requested to identify its present custodian and location.

18. Documents maintained in spreadsheets (e.g., Microsoft Excel, Lotus 1-2-3) should be produced in native format. Any slipsheets used should be branded with the corresponding Bates number and confidentiality designation.

19. Route reserves all rights to seek additional discovery, including but not limited to further Requests for Documents or Communications.

#### **DOCUMENT REQUESTS**

**Request for Production No. 1:** All Documents and Communications exchanged between You and any former or current Route Merchant Partner concerning Route or Navidium.

**Request for Production No. 2:** All Documents and Communications comprising or concerning

any statements, assertions, or solicitations made by You, including all posts, comments, or messages made by You on any social media platform and all solicitations You have sent to any Merchant, concerning Route or any former or current Route Merchant Partner.

**Request for Production No. 3:** All Documents and Communications related to the formation, organization, operational structure, and ownership of Navidium, including but not limited to any articles of incorporation, articles of organization, operating agreements, or bylaws.

**Request for Production No. 4:** All Documents and Communications concerning agreements between Navidium and Heuberger.

**Request for Production No. 5:** All Documents and Communications concerning agreements between Navidium and/or Heuberger on the one hand and any former or current Route Merchant Partner on the other hand.

**Request for Production No. 6:** All Documents and Communications related to any payments made by any former or existing Route Merchant Partner to You or made in connection with such Merchant Partners' use of Navidium's products or services.

**Request for Production No. 7:** All sales and accounting data related to the sale of Navidium's products and services, including sales reports, merchant account reports, sales projections or forecasts, Merchant or customer lists, balance sheets, ledgers, profit and loss statements, income statements, or cash flow statements.

**Request for Production No. 8:** All bank statements for accounts held by You from October 2020 to the present.

**Request for Production No. 9:** All Documents and Communications describing the transaction that occurs when a Merchant chooses to purchase or otherwise use Navidium's products or services, including whom the Merchant pays for the use of the Navidium technology and how

Navidium, or its owner(s) are compensated.

**Request for Production No. 10:** All Documents and Communications related to your efforts to market, advertise, or sell Navidium's products or services, including any slide decks, advertisements, videos, flyers, social media posts or comments, recorded phone calls, and email pitches.

**Request for Production No. 11:** All Documents and Communications that You obtained from Route, whether directly or indirectly.

**Request for Production No. 12:** All Documents and Communications related to your use of any email marketing vendor or service.

**Request for Production No. 13:** All Documents and Communications related to ElevatiONE's use of the EnGarde app.

Dated: November 8, 2022

Respectfully submitted,

/s/ Jess M. Krannich

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**CERTIFICATE OF SERVICE**

I, Jess M. Krannich, an attorney, certify that on Nov 8, 2022, I caused the foregoing document to be electronically served, via email, on the following counsel:

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